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**Administrative Bulletin 1.00**

**129 CMR 2.00:  
UNIFORM REPORTING SYSTEM FOR HEALTH CARE CLAIMS DATA SETS  
November 30, 2007**

This Administrative Bulletin clarifies health insurance carriers' obligation to submit certain paid claims and eligibility data to the Council's Health Claims Data Manager vendor, as well as the Council and its vendor's obligation to protect the privacy, confidentiality and security of this data.

**I. Data Submission**

- A. *Overview.* Massachusetts licensed health insurance carriers are legally required to submit copies of certain paid claims and eligibility data to the Council's Health Claims Data Manager vendor, the Maine Health Information Center.
- B. *Massachusetts State Law.* Massachusetts General Law c.6A, sections 16J, 16K, and 16L require health insurance carriers to submit this information to the Council or to a designated independent organization on behalf of the Council. Specifically, M.G.L. c.6A, s.16L includes the following provisions:

“(b) The council may, subject to chapter 30B, contract with an independent health care organization to provide the council with technical assistance related to its duties ...The independent health care organization shall have a history of demonstrating the skill and expertise necessary to: collect, analyze and aggregate data related to costs and quality across the health care continuum; ...”

“(d) Insurers and health care providers shall submit data to the council or to the independent organization on behalf of the council, as required by regulations promulgated under subsection e. If any insurer or health care provider fails to submit required data to the council on a timely basis, the council shall provide written notice to the insurer or provider. If the insurer or health care provider fails, without just cause, to provide the required information within 2 weeks following receipt of said written notice, the insurer or provider may be required to pay a penalty of \$1,000 for each week of delay; provided, however, that the maximum penalty under this section shall be \$50,000.

“(e) The council may promulgate additional rules and regulations relative to the type of information that reasonably may be required and the format in which it should be provided for the implementation the quality improvement and cost containment goals...”

C. *Health Care Quality and Cost Council regulations.* The Council’s regulation 129 CMR 2.00: Uniform Reporting System for Health Care Claim Data Sets specifies data elements that must be submitted to the Council or its designee, as well as the format and data submission schedule. 129 CMR 2.05 includes these provisions:

“(3) Health Claims Dataset. Each carrier shall submit to the Council, or its designee, a completed health care claims data set for all Massachusetts resident members who receive services under a policy issued in Massachusetts. Each carrier shall also submit all health care claims processed by any sub-contractor on its behalf. The health care claims data set shall include a member eligibility file, a medical claims file, and a pharmacy claims file.”

“(4) Health care claims processors may submit all of the data submissions required of carriers under this chapter, in accordance with the specifications included herein, to the extent permitted by law and contractual requirements.”

D. *Council designee.* The Council contracted with an independent organization, the Maine Health Information Center, to collect health care claims and eligibility information on behalf of the Council. The Maine Health Information Center is the Council’s designee for collecting the data specified in 129 CMR 2.00.

## II. Assurance of Confidentiality

A. *Overview.* Federal and Massachusetts law protect the confidentiality and security of certain types of health care data. The Council and its designee have instituted extensive precautions to ensure that this data is protected as required by law.

B. *Massachusetts State Law.*

1. M.G.L. c. 66A, the Fair Information Practices Act establishes protections for "personal data."
2. M.G.L. c.6A, §16L(e) includes the following specific protections for data collected by the Council.

“... Data submitted to the health care quality and cost council under this section and regulations promulgated thereunder shall not be deemed a public record under the provisions of clause twenty-sixth of section seven of chapter four and chapter 66, except as specified in regulations promulgated by the council or as approved by the council for display on the council’s website. The council shall promulgate regulations providing

access to such data, provided that such regulations shall take into account the need to: (1) achieve the goals identified by the council, (2) protect patient privacy, (3) prevent collusion or anti-competitive conduct, and (4) prevent the release of data that could reasonably be expected to increase the cost of health care. The regulations may limit access to data based on the proposed use of the data, the credentials of the requesting party, the type of data requested, or other criteria required to make a determination regarding the appropriate release of the data. The regulations shall also provide for limitations on the requesting party's use and release of any data to which that party has been given access by the council.”

C. *Health Care Quality and Cost Council Regulations.* Regulation 129 CMR 2.00: Uniform Reporting System for Health Care Claim Data Sets includes the following provisions ensuring data confidentiality.

1. Section 129 CMR 2.06 Protection of Confidentiality includes this provision.

“The Council shall ensure that it does not collect any Direct Patient Identifiers under 129 CMR 2.00. The Council shall institute appropriate administrative procedures and mechanisms to ensure that it is in compliance with the provisions of M.G.L. c. 66A, the Fair Information Practices Act, to the extent that the data collected there under are ‘personal data’ within the meaning of that statute. In addition, the Council shall ensure that any contract entered into with other parties for the purposes of processing and analysis of data collected under 129 CMR 2.00 shall contain assurances such other parties shall also comply with the provisions of M.G.L. c.66A.”

2. 129 CMR 2.04 includes this definition.

“Direct Patient Identifier. Any information, other than case or code numbers used to create anonymous or encrypted data, that plainly discloses the identity of an individual, including: (1) Names; (2) Postal address information other than town or city, state and zip code; (3) Telephone and fax numbers; (4) Electronic mail addresses; (5) Social security numbers; (6) Vehicle identifiers and serial numbers; (7) Personal internet ID addresses and URLs; (8) Biometric identifiers, including finger and voice prints; and (9) Personal photographic images.”

D. *Contractual Requirements.* The Council’s contract with its designee for data collection, the Maine Health Information Center (MHIC), includes several specific provisions to protect the data it collects.

1. *Standard requirement.* The MHIC is bound by the Commonwealth Terms and Conditions for all vendor contracts. These Terms and Conditions include this provision.

“6. Confidentiality. The Contractor shall comply with M.G.L. C.66A if the Contractor becomes a ‘holder’ of ‘personal data’. The Contractor shall also

protect the physical security and restrict any access to personal or other Department data in the Contractor's possession, or used by the Contractor in the performance of a Contract, which shall include, but is not limited to the Department's public records, documents, files, software, equipment or systems."

2. *Specific contract requirements.* The Council's contract with the MHIC includes the following specific requirements to protect the privacy, confidentiality, and security of the data.

"Privacy and Data Security:

"19. The vendor shall take the necessary precautions to provide for the physical security of Council data.

"20. The vendor shall maintain the highest level of security and data protection. The vendor shall institute a written policy to protect the privacy and security of health care claims data. The policy shall include appropriate administrative procedures and mechanisms to ensure that the vendor is in compliance with all provisions of the federal Health Insurance Portability and Accountability Act (HIPAA) and Massachusetts General Law chapter 66A, the Fair Information Practices Act. The policy shall include appropriate procedures and mechanisms to prevent and detect breaches in data security and other fraudulent acts. This policy shall include:

- "appropriate administrative safeguards, including procedures and mechanisms to prevent and detect breaches in data security and other fraudulent acts, security incident procedures, and a disaster recovery plan to ensure that the claims data collected under this contract is restored in full within 1 week of a disaster;
- "physical safeguards, including facility access controls, a data backup and storage plan, disposal and media reuse procedures; and
- "technical safeguards, including transmission security, encryption, access control, and audit controls.

"21. The vendor shall not release data collected under this contract to any entity, except as provided in writing by the Council.

"22. The vendor shall agree to submit to third party review of the vendor's ability to meet its contractual requirements in a timely and efficient manner, as well as its ability to meet industry best practices for ensuring the privacy and security of the data."

3. *Statistical Plan.* The Council's contract with the MHIC further requires the MHIC to submit a Statistical Plan to the Council for its approval. The Statistical Plan details the MHIC's policies and procedures for collecting, maintaining, editing, and protecting the data it collects on behalf of the Council. Section 5 of

the Statistical Plan includes the MHIC's detailed policies and procedures for Confidentiality, Security, and Data Encryption. Interested parties were given an opportunity to review the Statistical Plan and make recommendations for improvement to the Council prior to approval. The Statistical Plan is a public document and is posted on the Council's website at [www.mass.gov/healthcare](http://www.mass.gov/healthcare).